



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/218,817	12/22/1998	MICHAEL JOSEPH GARDNER	1170	2549

28004 7590 02/25/2004
SPRINT
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

EXAMINER

HARPER, KEVIN C

ART UNIT	PAPER NUMBER
----------	--------------

2666

14

DATE MAILED: 02/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/218,817

Applicant(s)

GARDNER, MICHAEL JOSEPH

Examiner

Kevin C. Harper

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-13,15-32,34-50 and 52-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,4-13,15-32,34-50 and 52-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3, 7, 10</u> . | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

Applicant's arguments with respect to claims 1-2, 4-13, 15-32, 34-50 and 52-55 have been considered but are moot in view of the new ground(s) of rejection. The indicated allowability of claims 1-2, 12-13, 31-32 and 48 is withdrawn under further consideration of Allen, Jr. et al. (US 2001/0017861). Further, these claim limitations only provide a recitation of the intended use of the claimed invention and do not result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Drawings

1. Applicant submitted proposed drawing changes on December 8, 2003. The proposed changes are approved, however corrected drawings must be submitted to overcome the objection to the drawings. Figure 2 is objected to because item 204 requires descriptive wording. Figure 8 is objected to because items 804 and 808 require descriptive wording. Figure 12 is objected to because items 1202 requires descriptive wording (37 CFR 1.83(a)). Corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 4-13, 15-32, 34-50 and 52-55 are rejected under 35 U.S.C. 102(e) as being anticipated by Allen, Jr, et al. (US 2001/0017861).

2. Regarding claims 1-2, 12-13, 18-19, 24-25, 29-32, 34-40, 44, 48-50 and 52-55, Allen discloses a system for connecting a call having call signaling and user communications (Figure 5). The system comprises a signaling processor (item 30) to receive and process call signaling to select an ATM connection for user communications and to transmit a call control message identifying the selected ATM connection (para. 26, lines 1-6). The system also comprises an ATM matrix (Figure 5, items 26-30) to receive the user communications over another ATM connection (note: connection from item 28), to receive the control message from the signaling processor and in response, connect the user communications over the selected ATM connection (para. 70, lines 7-12). A first and second TDM or LEC switching system (items 20 and items 22) provide user communications and interworking units (items 28) respond to control messages (Figure 5, ISUP). The system is used for call control and alternate routing for survivability (para. 26, lines 1-3 and para. 6, lines 1-15).

3. Regarding claims 4, 6, 8, 10, 16, 22, 27-28, 42 and 46, an ATM system (Figure 5, item 26) is used to transport the user communications to the ATM matrix using an ATM cross-connect

Art Unit: 2666

(Figure 5, item 28). The ATM system comprises several interconnected ATM switches (para. 44, last five lines).

4. Regarding claims 5, 9, 15, 21, 41 and 45, the ATM matrix (Figure 5, items 26-30) has switching control for directing ATM packets (abstract, lines 1-6).

5. Regarding claims 7, 11, 17, 23, 43 and 47, the ATM system comprises a gateway (Figure 5, item 28). The ATM system comprises several interconnected ATM switches (para. 44, last five lines).

6. Regarding claims 20 and 26, the switching systems inherently contains an interexchange carrier switch for communicating with other central offices through the telephone network.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Harper whose telephone number is 703-305-0139. The examiner can normally be reached weekdays, except Wednesday, from 9:30 AM to 8:00 PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema S. Rao, can be reached at 703-308-5463. The fax number for Technology Center (TC) 2600 is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service Office for TC 2600 at 703-306-0377.

Kevin C. Harper



February 20, 2004

Seema S. Rao
SEEMA S. RAO 2/20/04
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600